

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 83-C-2388 (Consolidated with Civ. Action No. 86-C-1675)

STATE OF COLORADO,

Plaintiff,

v.

ASARCO INCORPORATED, et al.,

Defendants and Third-Party Plaintiffs,

v.

LEADVILLE CORPORATION, et al.,

Third Party Defendants,

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UNITED STATES OF AMERICA,

Plaintiff,

v.

APACHE ENERGY AND MINERALS  
COMPANY, et al.,

Defendants.

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**FINAL MODIFICATION OF 1994 CONSENT DECREE WITH ASARCO**

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## I. BACKGROUND

A. On August 6, 1986, the United States of America (“United States”), at the request of the United States Environmental Protection Agency (“EPA”), filed a complaint against, among others, ASARCO Incorporated (now ASARCO, LLC and hereinafter referred to as “ASARCO”) pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. §§ 9606, 9607. The complaint sought injunctive relief for performance of response actions and reimbursement of costs incurred and to be incurred by the United States in response to the release or threat of release of hazardous substances at the California Gulch Superfund Site (the “Site”) located in and around Leadville, Colorado.

B. On December 9, 1983, the State of Colorado (the “State”) filed a complaint against ASARCO and others under Section 107 of CERCLA, 42 U.S.C. § 9607, for injury, destruction, or loss of natural resources associated with the release of hazardous substances and the cost of assessment of such injury from the Yak Tunnel and associated mine workings. The State amended its complaint on April 8, 1985, to include additional claims under Section 107 of CERCLA, 42 U.S.C. § 9607, for reimbursement of costs incurred and to be incurred in response to the release or threat of release of hazardous substances at the Yak Tunnel, associated mine workings, California Gulch, and portions of the Arkansas River. The federal and state actions were consolidated on February 3, 1987.

C. EPA issued Unilateral Administrative Order (“UAO”) No. CERCLA VIII 88-11 on July 5, 1988, and UAO CERCLA No. VIII 89-20 on March 19, 1989 to ASARCO, Resurrection Mining Company (“Resurrection”), Newmont Mining Corporation (now Newmont USA Limited and hereinafter referred to as “Newmont”), and the Res-Asarco Joint Venture (“Res-Asarco”) requiring them to perform response actions in connection with Operable Unit 1 (Yak Tunnel) (“OU1”) at the Site, including the construction, operation, and maintenance of a surge pond and water treatment plant near the portal of the Yak Tunnel to treat acid mine drainage before its discharge into California Gulch. While the Yak Tunnel was partially rehabilitated, a flow-through bulk head was installed, and the surge pond and water treatment plant were constructed, operation and maintenance activities continue at OU1.

D. On August 26, 1994, the Court approved and entered a Consent Decree in this matter (the “1994 Decree”). As part of the 1994 Decree, ASARCO agreed, among other things, to undertake response actions at Operable Unit 7 (Apache Tailing Impoundment) (“OU7”) to address the impact of the Apache Tailings facility upon the surface and groundwater within the California Gulch drainage; at Operable Unit 5 (Historic Smelter Sites) (“OU5”) to address the presence of smelter and mill waste contaminated with heavy metals such as lead, arsenic, cadmium, and zinc; and at Operable Unit 9 (“OU9”) to address residential soil contamination. In addition, the 1994 Decree required ASARCO to pay the future costs of EPA and the State in

overseeing ASARCO's work at OU5, OU7, and OU9. In return, the United States and the State provided certain covenants not to sue to ASARCO with regard to the Site, excluding OU1, Operable Unit 11 (Arkansas River Flood plain) ("OU11"), and Operable Unit 12 ("Site-wide Water Quality") ("OU12"). The 1994 Decree reserved, and did not settle, any liability ASARCO may have with regard to OU1, OU11, OU12, or with regard to any injury, destruction, or loss of natural resources associated with the release of hazardous substances at or from the Site.

E. In June 2000 EPA issued, with the concurrence of the State, a Record of Decision ("ROD") selecting a remedial action for OU7, the primary components of which were to pull-back materials that had sloughed into the California Gulch drainage, consolidate and cap the impoundment, and redirect the gulch to its natural channel. ASARCO largely completed work implementing the OU7 ROD, subject to continuing operation and maintenance activities. EPA issued two RODs for OU5. The first ROD, issued in September 2000, fundamentally required that certain smelter and mill waste from the Arkansas Valley Smelter and the Colorado Zinc & Lead Mill be consolidated and capped. The second ROD, issued in October 2000, selected the establishment of institutional controls for certain other smelter waste for which no further action was required, at the locations of three historic smelters and one slag disposal area (the Elgin, Grant-Union Smelter, and Western Zinc smelters, and the Arkansas Valley Hillside slag pile). ASARCO completed some, but not all, of the work necessary to implement the OU5 RODs.

F. EPA issued a Record of Decision selecting a remedy for OU11 on September 2005. The State concurred with EPA's selected remedy for OU11. The OU11 remedy has not yet been implemented. In November 2007 EPA issued a Focused Feasibility Study, examining possible remedial actions, for OU12. EPA has not yet selected a remedial action for OU12.

G. Pursuant to the Colorado Mined Land Reclamation Act ("Reclamation Act"), which requires that mining operators obtain a permit and reclaim areas disturbed by mining operations, in 1979 the Colorado Mined Land Reclamation Board ("MLRB") and the Colorado Division of Reclamation, Mining and Safety (f/k/a the Division of Minerals and Geology and the Mined Land Reclamation Division) (the "Division") issued Permit No. M-1977-218-UG to ASARCO for mining operations at the Black Cloud Mine, also known as the "Leadville Unit." The surface area of the Black Cloud Mine is located in the vicinity of, but is not in, the Site. ASARCO posted a financial warranty with the MLRB in the form of a corporate surety in the amount of \$2,233,400 and a cash bond in the amount of \$3,263.84 to ensure reclamation of the Black Cloud Mine. ASARCO also recorded a deed of trust in favor of the MLRB encumbering all Resurrection-Asarco joint venture property. Mining at the Black Cloud Mine ceased in 1999. The majority of the reclamation of the Black Cloud Mine has not yet been performed. The State has determined that the corporate surety bond, the cash bond, and the deed of trust are not adequate to meet the bonding requirements of the Reclamation Act.

H. On August 9, 2005, ASARCO filed a petition under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas (the “Bankruptcy Court”) in a pending case jointly administered as Case No. 05-21207 (the “Bankruptcy Case”). The United States and the State each filed Proofs of Claim in the Bankruptcy Case setting forth alleged liabilities of ASARCO for, among other things, past and future response costs in connection with OU1, OU5, OU7, OU9, OU11, and OU12. The United States also asserted claims, on behalf of the U.S. Department of the Interior (“DOI”), and the State, on behalf of its natural resource trustees, asserted claims for natural resource damages and costs of assessment with respect to releases of hazardous substances at or from the Site in their respective Proofs of Claim filed in the Bankruptcy Case. The United States and the State further asserted in the Bankruptcy Case, in their respective Proofs of Claim and other filings, that ASARCO’s obligations under the 1994 Consent Decree to complete work at OU1, OU5 and OU7, were nondischargeable, injunctive relief obligations of ASARCO. The State, through the MLRB and the Division, filed a separate Proof of Claim regarding the Black Cloud Mine, and Asarco’s obligations under the Reclamation Act and applicable permit to close and reclaim the Black Cloud Mine. Resurrection and Newmont also filed Proofs of Claim in the Bankruptcy Case related to their joint venture and related agreements with ASARCO.

I. The United States, the State, and ASARCO entered into a Settlement Agreement regarding the Site and the Black Cloud Mine that was approved by the Bankruptcy Court on August 28, 2007 subject to the approval of this Court. A copy of that Settlement Agreement and the Bankruptcy Court’s Order approving it are attached as Appendix A. This Final Modification of 1994 Consent Decree with ASARCO (“Final Modification”) is entered into by the United States, the State of Colorado, and ASARCO to conform with and effectuate that Settlement Agreement in the Bankruptcy Case, covering the Black Cloud Mine and the entirety of the California Gulch Superfund Site with the sole exclusion of Operable Unit 9 that is separately addressed by a Modification of 1994 Consent Decree Affecting Operable Unit 9 approved and entered by the Court on May 1, 2008 in this case (the “OU9 Settlement”).

J. Resurrection, Newmont, and ASARCO entered into a separate settlement agreement that resolves the disputes among them concerning the Site and the Black Cloud Mine that was approved by the Bankruptcy Court by an Order entered on August 28, 2007.

K. The United States, the State, and Resurrection and Newmont have entered into a separate proposed settlement agreement that has been incorporated into a Final Consent Decree with Newmont USA Limited and Resurrection Mining Company to be lodged with this Court concurrently with the lodging of this Final Modification.

L. The Parties recognize, and the Court by approving and entering this Final Modification finds, that this Final Modification has been negotiated by the Parties in good faith, and that implementation of this Final Modification is fair, reasonable, and in the public interest.

NOW, THEREFORE, it is hereby Ordered, Adjudged, and Decreed:

## II. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. §§ 9606, 9607, and 9613(b). Solely for the purposes of this Final Modification, ASARCO waives all objections and defenses it may have to jurisdiction of the Court or to venue in this District. ASARCO shall not challenge the terms of this Final Modification or this Court's jurisdiction to enter it.

## III. DEFINITIONS

2. Unless otherwise expressly provided herein, terms used in this Final Modification which are defined in CERCLA or the Reclamation Act or in regulations promulgated under CERCLA or the Reclamation Act shall have the meaning assigned to them by CERCLA or the Reclamation Act respectively or such regulations. Whenever any of the terms listed below are used in this Final Modification, the following definition shall apply:

“Natural Resource” or “Natural Resources” shall mean land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and such other resources belonging to, managed by, or held in trust by, appertaining to, or otherwise controlled by the United States, the State, or local government.

## IV. PARTIES BOUND

3. This Final Modification applies to and is binding upon the United States and the State, and upon ASARCO and its legal successors and assigns, and any trustee, examiner, or receiver appointed in the Bankruptcy Case (individually a “Party” and collectively the “Parties”).

## V. PAYMENTS TO THE UNITED STATES

4. In settlement and satisfaction of all claims and causes of action of the United States with respect to costs of response incurred or to be incurred in connection with the Site (including but not limited to the liabilities and other obligations asserted in the Proofs of Claim and other pleadings filed in the Bankruptcy Court by the United States but excepting claims related to future response costs with respect to Operable Unit 9 (Residential Populated Areas), which are governed by the OU9 Settlement), the United States on behalf of EPA shall have an allowed general unsecured claim in the total amount of \$8,833,000 for past and future response costs in In re Asarco LLC, No. 05-21207 (Bankr. S.D. Tex.).

5. In settlement and satisfaction of all claims and causes of action of the United States for natural resource damages and costs of assessment incurred or to be incurred in connection with the Site (including but not limited to any natural resource damages allegedly attributable in whole or in part to releases of hazardous substances from any portion of the Site and any other claims set forth in the Proofs of Claims filed on behalf of the federal trustees), the United States on behalf of DOI shall have an allowed general unsecured claim in the amount of \$5,000,000 in In re Asarco LLC, No. 05-21207 (Bankr. S.D. Tex.).

6. Cash distributions made by ASARCO to the United States for the benefit of EPA shall be made by FedWire Electronic Funds Transfer (“EFT”) to the U.S. Department of Justice account in accordance with current EFT procedures, referencing DOJ Case No. 90-11-3-08633 and EPA Site/Spill ID Number 08290. Payment shall be made in accordance with instructions provided to ASARCO by the Financial Litigation Unit of the United States Attorney’s Office for the District of Colorado. At the time of payment ASARCO shall send notice that payment has been made by email to [acctsreceivable.cinwd@epa.gov](mailto:acctsreceivable.cinwd@epa.gov) and mail to

U.S. Environmental Protection Agency  
Superfund Payments  
P.O. Box 979076  
St. Louis, MO 63197-9000.

Noncash distributions made by ASARCO to the United States for the benefit of EPA shall be made to

U.S. EPA -- Superfund  
Molly Williams  
Cincinnati Finance  
US EPA, MS-NWD  
26 W ML King Drive  
Cincinnati, OH 45268-0001.

ASARCO shall send notice that payment or noncash distribution has been made, and send copies of distributions and related correspondence, by email to [walker.martha@epa.gov](mailto:walker.martha@epa.gov) and mail to

Martha Walker, FMO  
Financial Management Program  
U.S. Environmental Protection Agency  
1595 Wynkoop St.  
Denver, CO 80202

and

Jerel ("Jerry") L. Ellington  
Senior Counsel  
U.S. Department of Justice  
Environmental Enforcement Section  
1961 Stout Street  
8th Floor  
Denver, CO 80294

7. Amounts received by EPA shall be deposited in operable unit specific special accounts (for OU5, OU7, OU11, and OU12), or a Site-wide special account, within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with one or more of these operable units at the Site, or be transferred by EPA to the EPA Hazardous Substance Superfund.

8. Cash distributions made by ASARCO to the United States for the benefit of DOI shall be made by FedWire EFT to the U.S. Department of Justice account in accordance with current EFT procedures, referencing DOJ Case No. 90-11-3-08633, and NRDAR Account No. 14X5198. Payment shall be made in accordance with instructions provided to ASARCO by the Financial Litigation Unit of the United States Attorney's Office for the District of Colorado. Noncash distributions made by ASARCO to the United States for the benefit of DOI shall be made to

DOI Natural Resource Damage and Restoration Program  
Attn: NRDAR Fund Manager  
1849 C Street, N.W.  
Mailstop 3548  
Washington, D.C. 20240

At the time of payment or noncash distribution, ASARCO shall send notice that payment or noncash distribution has been made by mail to

DOI Natural Resource Damage Assessment and Restoration Program  
Attn: Fund Manager  
  
1849 C Street, N.W.  
Mailstop 3548  
Washington, D.C. 20240

and

Laura Archuleta  
NRDAR Project Manager  
46525 Highway 114  
U.S. Fish & Wildlife Service  
Saguache, CO 81149

and to

Jerel (“Jerry”) L. Ellington  
Senior Counsel  
U.S. Department of Justice  
Environmental Enforcement Section  
1961 Stout Street  
8th Floor  
Denver, CO 80294.

9. Amounts received by DOI will be used to reimburse incurred costs of assessment and for the assessment, planning, restoration, rehabilitation, replacement, or acquisition of Natural Resources equivalent to those injured by the release of hazardous substances from the Site, including the long-term management of Natural Resources in accordance with a final restoration plan or plans to be developed by the State and U.S. Fish and Wildlife Service. The amount distributed to DOI shall be managed as part of, and held in a distinct account within, DOI’s Natural Resource Damage Recovery Fund.

10. Those provisions of the Settlement Agreement in the Bankruptcy Case, a copy of which is appended as A, as specifically set forth in Paragraphs 5, 6, and 7, are incorporated herein by this reference for the benefit of the United States and DOI.

#### VI. PAYMENTS TO THE STATE

11. In settlement and satisfaction of all claims and causes of action of the State with respect to costs of response incurred or to be incurred in connection with the Site (including but not limited to the liabilities and other obligations asserted in the Proof of Claim and other pleadings filed in the Bankruptcy Court by the State but excepting claims related to future response costs with respect to Operable Unit 9 (Residential Populated Areas), which are governed by the OU9 Settlement, the State shall have an allowed general unsecured claim in the total amount of \$467,000 in In re Asarco LLC, No. 05-21207 (Bankr. S.D. Tex.). Cash distributions made by ASARCO to the State with respect to past and future response costs shall be made by certified or cashier’s check or checks payable to “Treasurer, State of Colorado,” referencing the name and address of the party making payment for Response Costs for the California Gulch Superfund Site. Noncash distributions made by ASARCO to the State for

response costs shall name “Treasurer, State of Colorado” as recipient. Check(s) and noncash distributions by ASARCO to the State for response costs shall be sent to Mr. Joe E. Montoya, Office of the Attorney General, Natural Resources & Environment Section, 1525 Sherman, Street, 7th Floor, Denver, CO 80203.

12. In settlement and satisfaction of all claims and causes of action of the State with respect to costs of assessment incurred or to be incurred in connection with the Site, natural resource damages allegedly attributable in whole or in part to releases of hazardous substances from any portion of the Site and any other claims set forth in the Proofs of Claims filed on behalf of the State, the State natural resource trustees, the State shall have an allowed general unsecured claim in the amount of \$5,000,000 in In re Asarco LLC, No. 05-21207 (Bankr. S.D. Tex.). Cash distributions made by ASARCO to the State with respect to natural resource damages shall be made by certified or cashier’s check or checks payable to “Treasurer, State of Colorado, referencing the name and address of the party making the payment for Natural Resources Damages for the California Gulch Superfund Site. Noncash distributions by ASARCO to the State shall name “Treasurer, State of Colorado” as the recipient. The check(s) and noncash distributions by ASARCO to the State with respect to natural resource damages shall be sent to Mr. Joe E. Montoya, Office of the Attorney General, Natural Resources & Environment Section, 1525 Sherman, Street, 7<sup>th</sup> Floor, Denver, CO 80203.

13. Amounts received by the State with respect to natural resource damages shall be used by the State to reimburse incurred costs of assessment, and for planning, restoration, rehabilitation, replacement, or acquisition of Natural Resources equivalent to those injured by releases of hazardous substances from the Site, including long-term management of Natural Resources in accordance with a final restoration plan or plans to be developed by the State and the U.S. Fish and Wildlife Service. The amount distributed to the State pursuant to the preceding Paragraph 12 shall be deposited by the State in a segregated sub-account of the State’s Natural Resource Damage Recovery Fund, and as appropriate, other funds that financed assessment costs.

14. Those provisions of the Settlement Agreement, a copy of which is appended as Appendix A, as specifically set forth in Paragraphs 5, and 7, are incorporated herein by this reference for the benefit of the State.

## VII. PERFORMANCE OF WORK AT THE SITE

15. ASARCO’s obligations with respect to OU9 are addressed exclusively by the OU9 Settlement.

#### VIII. BLACK CLOUD MINE

16. Those provisions of the Settlement Agreement, a copy of which is appended as Appendix A, as specifically set forth in Paragraphs 9 and 10, are incorporated herein by this reference.

#### IX. COVENANTS NOT TO SUE/RESERVATIONS OF RIGHTS

17. Those provisions of the Settlement Agreement, a copy of which is appended as Appendix A, as specifically set forth in Paragraphs 11 to and including 18, are incorporated herein by this reference.

#### X. CONTRIBUTION PROTECTION

18. Those provisions of the Settlement Agreement, a copy of which is appended as Appendix A, as specifically set forth in Paragraph 19, are incorporated herein by this reference.

#### XI. EFFECT OF CONSENT DECREE MODIFICATION

19. Upon the Court's approval and entry of this Final Modification, ASARCO shall have no further obligation under the 1994 Consent Decree except as specifically provided by Paragraph 15 and by the OU9 Settlement.

20. Nothing in this Final Modification shall be construed to create any rights in, or grant any cause of action to, any person not a party to this Final Modification.

#### XII. LODGING AND OPPORTUNITY FOR PUBLIC NOTICE

21. This Final Modification shall be lodged with the Court for a period of not less than thirty days for public notice and comment. The United States and the State reserve the right to withdraw or withhold its consent if the comments on this Final Modification disclose facts or considerations which indicate that it is inappropriate, improper, or inadequate. ASARCO consents to the entry of this Final Modification without further notice.

22. If for any reason the Court should decline to approve this Final Modification in the form presented, this agreement is voidable at the sole discretion of any Party and the terms of the agreement may not be used in evidence in any litigation between the Parties.

#### XIII. EFFECTIVE DATE

23. This Final Modification shall become effective on the later of: (a) the date that

this Final Modification is approved and entered by the Court, or (b) the date that this Court approves and enters the Final Consent Decree with Newmont USA Limited and Resurrection Mining Company to be lodged with this Court concurrently with the lodging of this Final Modification.

24. This Final Modification with ASARCO is contingent upon the Court's approval and entry of the Final Consent Decree with Newmont USA Limited and Resurrection Mining Company in the form presented or in a form approved in writing by the United States, State, Newmont USA Limited, and Resurrection Mining Company. If the Court declines to approve the Final Consent Decree with Newmont USA Limited and Resurrection Mining Company in the form presented, or in a form approved in writing by the United States, State, Newmont USA Limited, and Resurrection Mining Company, this Final Modification shall be null and void and of no further effect.

25. ASARCO agrees not to oppose entry of this Final Modification or to challenge any of its provisions unless the United States or the State has notified ASARCO in writing that they no longer support entry of the Consent Decree.

#### XIV. SIGNATORIES/SERVICE

26. This Final Modification may be signed in counterparts, and its validity shall not be challenged on that basis.

27. Each undersigned representative of ASARCO, each undersigned representative of the State, and the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice, certifies that he or she is fully authorized to enter into the terms and conditions of this Final Modification and to execute and legally bind such Party to this document.

SO ORDERED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2008.

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UNITED STATES DISTRICT JUDGE

THE UNDERSIGNED PARTY(IES) enter into this Final Modification of 1994 Consent Decree with ASARCO in the above captioned matter relating to the California Gulch Superfund Site.

**FOR THE UNITED STATES OF AMERICA**

**U.S. DEPARTMENT OF JUSTICE**

  
\_\_\_\_\_  
RONALD J. TENPAS

Assistant Attorney General  
Environment and Natural Resources Division  
U.S. Department of Justice

26 June 2008  
Date

\_\_\_\_\_  
JEREL ("JERRY") L. ELLINGTON  
MARK C. ELMER  
Attorneys  
Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
1961 Stout Street, 8<sup>th</sup> Floor  
Denver, CO 80294

\_\_\_\_\_  
Date

**UNITED STATES ATTORNEY'S OFFICE  
DISTRICT OF COLORADO**

TROY A. EID  
United States Attorney

\_\_\_\_\_  
STEPHEN D. TAYLOR  
Assistant United States Attorney  
District of Colorado  
1225 Seventeenth Street, Suite 700  
Denver, CO 80202

\_\_\_\_\_  
Date

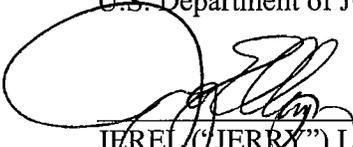
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**FOR THE UNITED STATES OF AMERICA**

**U.S. DEPARTMENT OF JUSTICE**

\_\_\_\_\_  
RONALD J. TENPAS  
Assistant Attorney General  
Environment and Natural Resources Division  
U.S. Department of Justice

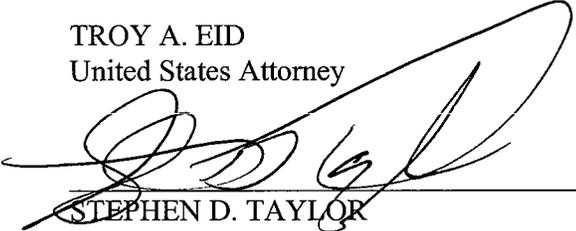
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Date

  
\_\_\_\_\_  
JEREL ("JERRY") L. ELLINGTON  
MARK C. ELMER  
Attorneys  
Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
1961 Stout Street, 8<sup>th</sup> Floor  
Denver, CO 80294

6/26/2008  
Date

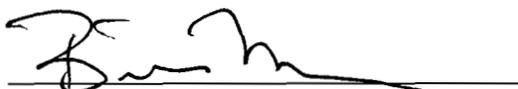
**UNITED STATES ATTORNEY'S OFFICE  
DISTRICT OF COLORADO**

TROY A. EID  
United States Attorney

  
\_\_\_\_\_  
STEPHEN D. TAYLOR  
Assistant United States Attorney  
District of Colorado  
1225 Seventeenth Street, Suite 700  
Denver, CO 80202

6/24/08  
Date

THE UNDERSIGNED PARTY(IES) enter into this Final Modification of 1994 Consent Decree with ASARCO in the above captioned matter relating to the California Gulch Superfund Site.  
**FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 8**



BILL MURRAY, DIRECTOR  
Superfund Remedial Response Program  
Office of Ecosystems Protection and Remediation  
U.S. Environmental Protection Agency, Region 8

6/18/08  
Date



MATTHEW D. COHN, SUPERVISOR  
Legal Enforcement Program  
Office of Enforcement, Compliance,  
and Environmental Justice  
U.S. Environmental Protection Agency, Region 8

6/24/08  
Date



SHARON L. KERCHER, DIRECTOR  
Technical Enforcement Program  
Office of Enforcement, Compliance,  
and Environmental Justice  
U.S. Environmental Protection Agency, Region 8

6/24/08  
Date

THE UNDERSIGNED PARTY(IES) enter into this Final Modification of 1994 Consent Decree with ASARCO in the above captioned matter relating to the California Gulch Superfund Site.

**FOR THE STATE OF COLORADO**

  
\_\_\_\_\_  
JOHN W. SUTHERS  
Attorney General as State Natural Resource Trustee

6/24/08  
Date

  
\_\_\_\_\_  
VICTORIA L. PETERS, Counsel of Record  
Senior Assistant Attorney General  
Hazardous and Solid Waste/CERCLA Litigation Unit  
Natural Resources and Environment Section  
1525 Sherman Street, 7<sup>th</sup> Floor  
Denver, CO 80203

6/23/08  
Date

  
\_\_\_\_\_  
JAMES B. MARTIN  
Executive Director  
Colorado Department of Public Health & Environment,  
and State Natural Resource Trustee

6/24/08  
Date

\_\_\_\_\_  
RONALD W. CATTANY  
Director, Division of Reclamation, Mining and Safety,  
and State Natural Resource Trustee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chair of the MLRB

\_\_\_\_\_  
Date

THE UNDERSIGNED PARTY(IES) enter into this Final Modification of 1994 Consent Decree with ASARCO in the above captioned matter relating to the California Gulch Superfund Site.

**FOR THE STATE OF COLORADO**

\_\_\_\_\_  
JOHN W. SUTHERS  
Attorney General as State Natural Resource Trustee

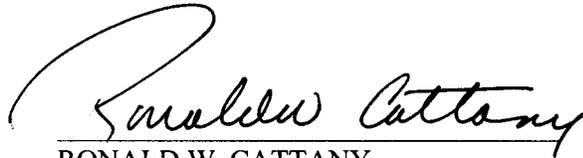
\_\_\_\_\_  
Date

\_\_\_\_\_  
VICTORIA L. PETERS, Counsel of Record  
Senior Assistant Attorney General  
Hazardous and Solid Waste/CERCLA Litigation Unit  
Natural Resources and Environment Section  
1525 Sherman Street, 7<sup>th</sup> Floor  
Denver, CO 80203

\_\_\_\_\_  
Date

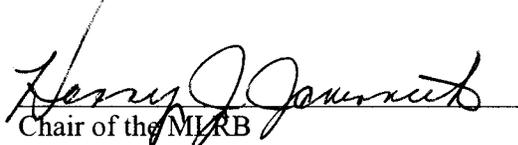
\_\_\_\_\_  
JAMES B. MARTIN  
Executive Director  
Colorado Department of Public Health & Environment,  
and State Natural Resource Trustee

\_\_\_\_\_  
Date



RONALD W. CATTANY  
Director, Division of Reclamation, Mining and Safety,  
and State Natural Resource Trustee

June 24, 2008  
Date

  
Chair of the MLRB

06-24-2008  
Date

THE UNDERSIGNED PARTY(IES) enter into this Final Modification of 1994 Consent Decree with ASARCO in the above captioned matter relating to the California Gulch Superfund Site.

**FOR ASARCO LLC  
(FORMERLY ASARCO INCORPORATED)**

TH ALDRICH  
THOMAS L. ALDRICH  
Vice President, Environmental Affairs

6/12/2008  
Date

D. E. McAllister  
DOUGLAS E. McALLISTER  
Executive Vice President, General Counsel

6/12/2008  
Date